

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of	)	
	)	
HIGH TRUST BANK	)	CONSENT ORDER
STOCKBRIDGE, GEORGIA	)	
	)	
(Insured State Nonmember Bank)	)	FDIC-09-486b
_____	)	

The Federal Deposit Insurance Corporation ("FDIC") is the appropriate Federal banking agency for HIGH TRUST BANK , STOCKBRIDGE, GEORGIA ("Bank") under 12 U.S.C. § 1813(q).

The Bank, by and through its duly elected and acting Board of Directors ("Board"), has executed a "Stipulation to the Issuance of a Consent Order" ("Stipulation"), dated November 13, 2009, that is accepted by the FDIC and the Georgia Department of Banking and Finance ("Department"). The Department may issue an order pursuant to section 7-1-91 of the Official Code of Georgia Annotated, GA Code Ann. Section 7-1-91 (1985).

With this Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices, or violations of law or regulation relating to weaknesses in asset quality, capital adequacy, earnings, management effectiveness, liquidity, and sensitivity to market risk, to the issuance of this Consent Order ("ORDER") by the FDIC and the Department.

Having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and section 7-1-91 of the Official Code of Georgia Annotated, GA

Code Ann. Section 7-1-91 (1985) have been satisfied, the FDIC and the Department hereby order that the Bank, its institution-affiliated parties, and its successors and assigns take affirmative action as follows:

**BOARD OF DIRECTORS**

1. (a) Effective immediately, the board of directors (“Board”) shall increase its participation in the affairs of the Bank, assuming full responsibility for the approval of sound policies and objectives and for the supervision of all of the Bank's activities, consistent with the role and expertise commonly expected for directors of banks of comparable size. The Board shall prepare in advance and follow a detailed written agenda for each meeting, including consideration of the actions of any committees. Nothing in the foregoing sentences shall preclude the Board from considering matters other than those contained in the agenda. This participation shall include meetings to be held no less frequently than monthly at which, at a minimum, the following areas shall be reviewed and approved: reports of income and expenses; new, overdue, renewal, insider, charged-off, and recovered loans; investment activity; operating policies; and individual committee actions. Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

(b) Within 30 days from the effective date of this ORDER, the Board shall establish a Board committee (“Directors’ Committee”), consisting of at least four members, to oversee the Bank’s compliance with the ORDER. Three of the members of the Directors’ Committee shall not be officers of the Bank. The Directors’ Committee shall receive from Bank management monthly reports detailing the Bank’s actions with respect to compliance with the ORDER. The Directors’ Committee shall present a report

detailing the Bank's adherence to the ORDER to the Board at each regularly scheduled Board meeting. Such report shall be recorded in the appropriate minutes of the Board's meeting and shall be retained in the Bank's records. Establishment of this committee does not in any way diminish the responsibility of the entire Board to ensure compliance with the provisions of this ORDER.

### **MANAGEMENT**

2. (a) Within 60 days from the effective date of this ORDER, the Bank shall have and retain management with the qualifications and experience commensurate with assigned duties and responsibilities at the Bank. Each member of management shall be provided appropriate written authority from the Bank's Board to implement the provisions of this ORDER. At a minimum, management shall include the following:

(i) a chief executive officer with proven ability in managing a bank of comparable size and in effectively implementing lending, investment and operating policies in accordance with sound banking practices;

(ii) a senior lending officer with a significant amount of lending, collection, and loan supervision experience, and experience in upgrading a low quality loan portfolio; and

(iii) a chief financial officer with a demonstrated ability in all financial areas, including but not limited to, accounting, regulatory reporting, budgeting and planning, management of the investment function, liquidity management and interest rate risk management.

(b) The qualifications of management shall be assessed on its ability to:

(i) comply with the requirements of this ORDER;

- (ii) operate the Bank in a safe and sound manner;
- (iii) comply with applicable laws and regulations; and
- (iv) restore all aspects of the Bank to a safe and sound condition, including, but not limited to, asset quality, capital adequacy, earnings, management effectiveness, risk management, liquidity and sensitivity to market risk.

(c) During the life of this ORDER, the Bank shall notify the Regional Director of the FDIC's Atlanta Regional Office ("Regional Director") and the Commissioner (collectively, "Supervisory Authorities"), in writing, of the resignation or termination of any of the Bank's directors or senior executive officers. Prior to the addition of any individual to the Board or the employment of any individual as a senior executive officer, the Bank shall comply with the requirements of section 32 of the Act, 12 U.S.C. § 1831i, and Subpart F of Part 303 of the FDIC Rules and Regulations, 12 C.F.R. §§ 303.100-303.104 and any State requirement for prior notification and approval. The notification should include a description of the background and experience of the individual or individuals to be added or employed and must be received at least 60 days before such addition or employment is intended to become effective. If the Regional Director issues a notice of disapproval pursuant to section 32 of the Act, 12 U.S.C. § 1831i, with respect to any proposed individual, then such individual may not be added or employed by the Bank.

### **CAPITAL**

3. (a) Within 90 days from the effective date of this ORDER, the Bank shall have Tier 1 Capital in such an amount as to equal or exceed 8 percent of the Bank's total

assets and Total Risk-Based Capital in such an amount as to equal or exceed 10 percent of the Bank's total risk-weighted assets. Thereafter, the Bank shall maintain Tier 1 Capital and Total Risk Based Capital ratios equal to or exceeding 8 percent and 10 percent, respectively, during the life of this ORDER.

(b) The level of Tier 1 Capital and Total Risk-Based Capital to be maintained during the life of this ORDER pursuant to this paragraph shall be in addition to a fully funded allowance for loan and lease losses ("ALLL"), the adequacy of which shall be satisfactory to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

(c) Any increase in Tier 1 Capital and Total Risk Based Capital necessary to meet the requirements of this paragraph of the ORDER may not be accomplished through a deduction from the Bank's ALLL. For purposes of this ORDER, the terms "Tier 1 Capital", "Total Risk Based Capital", and "total assets" shall have the meaning ascribed to them in Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. Part 325.

#### **DIVIDENDS**

4. While this ORDER is in effect, the Bank shall not declare or pay any cash dividends without the prior written approval of the Supervisory Authorities.

#### **CONCENTRATIONS OF CREDIT**

5. Within 60 days from the effective date of this ORDER, the Bank shall perform a risk segmentation analysis with respect to the Concentrations of Credit listed on the Concentrations page of the Report and any other concentration deemed important by the Bank. Concentrations should be identified by product type, geographic distribution, underlying collateral, or other asset groups which are considered economically related

and in the aggregate represent a large portion of the Bank's Tier 1 Capital. A copy of this analysis shall be provided to the Supervisory Authorities. The Board agrees to develop a plan to reduce any segment of the portfolio which the Supervisory Authorities deem to be an undue concentration of credit in relation to the Bank's Tier 1 Capital. The plan and its implementation shall be in a form and manner acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

### **CHARGE-OFF**

6. (a) Within 10 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" and 50 percent of all assets or portions of assets classified "Doubtful" in the Report that have not been previously collected or charged-off unless otherwise approved in writing by the Supervisory Authorities. If an asset classified "Doubtful" is a loan, the Bank may, in the alternative, increase its ALLL by an amount equal to 50 percent of the loan classified "Doubtful."

(b) Additionally, while this ORDER remains in effect, the Bank shall, within 10 days from the receipt of any official Report of Examination of the Bank from the FDIC or the Department, eliminate from its books, by collection, charge-off, or other proper entries, the remaining balance of any asset classified "Loss" and 50 percent of those classified "Doubtful" unless otherwise approved in writing by the Supervisory Authorities. If an asset classified "Doubtful" is a loan, the Bank may, in the alternative, increase its ALLL by an amount equal to 50 percent of the loan classified "Doubtful."

(c) Elimination or reduction of assets through proceeds of other loans made by the Bank is not considered collection for purposes of this provision.

## **ALLOWANCE FOR LOAN AND LEASE LOSSES**

7. Within 30 days from the effective date of this ORDER, the Board shall review the adequacy of the ALLL and shall revise its policy for determining the adequacy of the ALLL to ensure the policy is comprehensive. For the purpose of this determination, the adequacy of the ALLL shall be determined after the charge-off of all loans or other items classified "Loss". The policy shall provide for a review of the ALLL at least once each calendar quarter. Said review should be completed at least twenty-one (21) days after the end of each calendar quarter, in order that the findings of the Board with respect to the ALLL may be properly reported in the quarterly Reports of Condition and Income. The review should focus on the results of the Bank's internal loan review, loan and lease loss experience, trends of delinquent and non-accrual loans, an estimate of potential loss exposure of significant credits, concentrations of credit, and present and prospective economic conditions. A deficiency in the ALLL shall be remedied in the calendar quarter it is discovered, prior to submitting the Reports of Condition and Income, by a charge to current operating earnings. The minutes of the Board meeting at which such review is undertaken shall indicate the results of the review. The Bank's policy for determining the adequacy of the ALLL and its implementation shall be satisfactory to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

## **ADVERSELY CLASSIFIED ASSETS**

8. (a) Within 60 days from the effective date of this ORDER, the Bank shall formulate a written plan to reduce the Bank's risk exposure in each asset, or relationship in excess of \$500,000 classified "Substandard" and/or "Doubtful" in the Report. For purposes of this provision "reduce" means to collect, charge off, or improve the quality of

an asset so as to warrant its removal from adverse classification by the Supervisory Authorities. In developing the plan mandated by this paragraph, the Bank shall, at a minimum, and with respect to each adversely classified loan or lease, review, analyze, and document the financial position of the borrower, including source of repayment, repayment ability, and alternative repayment sources, as well as the value and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank's collateral position.

(b) In addition, the plan mandated by this provision shall also include, but not be limited to, the following:

- (i) a quarterly schedule for reducing the outstanding dollar amount of adversely classified assets;
- (ii) a schedule showing, on a quarterly basis, the expected consolidated balance of all adversely classified assets, and the ratio of the consolidated balance to the Bank's projected Tier 1 Capital plus the ALLL;
- (iii) a provision for the Bank's submission of monthly written progress reports to its Board; and
- (iv) a provision mandating Board review of the progress reports, with a notation of the review recorded in the minutes of the meeting of the Board.

(c) The plan mandated by this provision shall further require a reduction in the aggregate balance of assets classified "Substandard" or "Doubtful" in the Report in



accordance with the following schedule. For purposes of this paragraph, “number of days” means number of days from the effective date of this ORDER.

- (i) Within 180 days, a reduction of twenty percent (20%) in the balance of assets classified “Substandard” or “Doubtful”;
- (ii) Within 365 days, a reduction of forty-five percent (45%) in the balance of assets classified “Substandard” or “Doubtful”;
- (iii) Within 540 days, a reduction of sixty percent (60%) in the balance of assets classified “Substandard” or “Doubtful”; and
- (iv) Within 720 days, a reduction of seventy-five percent (75%) in the balance of assets classified “Substandard” or “Doubtful.”

(d) The requirements of this paragraph do not represent standards for future operations of the Bank. Following compliance with the above reduction schedule, the Bank shall continue to reduce the total volume of adversely classified assets. The plan may include a provision for increasing Tier 1 Capital when necessary to achieve the ratio prescribed in paragraph 8(b)(ii).

(e) Within 60 days of the effective date of this ORDER, the Bank shall submit the plan to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Supervisory Authorities, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of the Board meeting. Thereafter, the Bank shall implement and fully comply with the plan. Such plan shall be monitored and progress reports thereon shall be submitted to the Supervisory Authorities at 90-day intervals concurrent with the other reporting requirements set forth in this ORDER.

## **NO ADDITIONAL CREDIT**

9. (a) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit or obligation with the Bank that has been, in whole or in part, charged off or classified "Loss" or "Doubtful" and is uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing, after collecting in cash all interest and fees due from a borrower, any credit already extended to the borrower.

(b) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower whose loan is adversely classified as "Substandard" or listed for "Special Mention" by the Supervisory Authorities and is uncollected.

(c) Paragraph 9(b) shall not apply if the Bank's failure to extend further credit to a particular borrower would be detrimental to the best interests of the Bank. Prior to extending additional credit pursuant to this paragraph 9, whether in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by the Bank's Board, or a designated committee thereof, who shall certify, in writing:

- (i) why failure of the Bank to extend such credit would be detrimental to the best interests of the Bank;
- (ii) why the extension of such credit would improve the Bank's position, including an explanatory statement of how the Bank's position would improve; and

(iii) that an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended.

(d) The signed certification shall be made a part of the minutes of the Board meeting, or designated committee, with a copy retained in the borrower's credit file.

#### **NO MATERIAL GROWTH WITHOUT PRIOR NOTICE**

10. While this Order is in effect, the Bank must notify the Supervisory Authorities at least 60 days prior to undertaking asset growth of 10 percent or more or initiating material changes in asset or liability composition.

#### **SPECIAL MENTION ASSETS**

11. Within 60 days from the effective date of this ORDER, the Bank shall develop and adopt a plan to correct all deficiencies in the assets listed for "Special Mention". Thereafter, the Bank shall implement and fully comply with the plan. The Board shall provide written reports regarding steps taken to correct the deficiencies identified in the Report to the Supervisory Authorities at 90-day intervals concurrently with the other reporting requirements set forth in paragraph 22 of this ORDER.

#### **LIQUIDITY AND FUNDS MANAGEMENT**

12. (a) Beginning with the effective date of this ORDER, Bank management shall review its liquidity position weekly to ensure that the Bank has sufficient liquid assets or sources of liquidity to meet current and anticipated liquidity needs. This review shall include an analysis of the Bank's sources and uses of funds (cash flow analysis). The results of each weekly analysis shall be made a part of the Board minutes and submitted to the Supervisory Authorities on a weekly basis.

(b) Within 60 days from the effective date of this ORDER, the Bank shall develop, adopt, and implement a written liquidity contingency plan. The written liquidity contingency plan shall incorporate the applicable guidance contained in Financial Institution Letter (FIL) 84-2008 dated August 26, 2008, entitled *Liquidity Risk Management*. The liquidity contingency plan shall provide restrictions on the use of brokered deposits consistent with safe and sound banking practices. Such plan shall be submitted to the Supervisory Authorities for review and approval, and its implementation shall be in a form and manner acceptable to the Supervisory Authorities, as determined at subsequent examinations and/or visitations.

#### **PLAN FOR EXPENSES AND PROFITABILITY**

13. (a) Within 90 days from the effective date of this ORDER, the Bank shall formulate and fully implement a written plan and a comprehensive budget for all categories of income and expense for 2010. The plan and budget required by this paragraph shall include formal goals and strategies, consistent with sound banking practices and taking into account the Bank's other written policies, to improve the Bank's net interest margin, increase interest income, reduce discretionary expenses, reduce dependency on brokered deposits, and improve and sustain earnings of the Bank. The plan shall include a description of the operating assumptions that form the basis for and adequately support major projected income and expense components. Thereafter, the Bank shall formulate such a plan and budget for the upcoming year by November 30 of each subsequent year.

(b) The plan and budget required by paragraph 13(a) of this ORDER shall be acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

(c) Following the end of each calendar quarter, the Board shall evaluate the Bank's actual performance in relation to the plan and budget required by paragraph 13(a) of this ORDER and shall record the results of the evaluation, and any actions taken by the Bank, in the minutes of the Board meeting at which such evaluation is undertaken.

### **INTEREST RATE RISK**

14. Within 60 days from the effective date of this ORDER, the Bank shall review its current interest rate risk policy to determine if it is sufficient to oversee the Bank's interest rate risk exposure, taking into consideration the Bank's financial condition and current economic trends. Board approved interest rate risk parameters shall be established that take into consideration the Bank's capital position and earnings performance. The Bank's interest rate risk measurement system's assumptions should be independently reviewed for reasonableness to ensure the integrity of the system results. Key assumptions that bear particular attention include those dealing with rate movements, prepayment speeds, account aggregation, and embedded options in certain assets. The Board shall review the Bank's interest rate risk position monthly and this review shall be noted in the Board minutes.

### **WRITTEN STRATEGIC/BUSINESS PLAN**

15. Within 90 days from the effective date of this ORDER, the Bank shall prepare and submit to the Supervisory Authorities its written strategic plan consisting of long-term goals designed to improve the condition of the Bank and its viability and strategies

for achieving those goals. At a minimum, the plan shall cover three years and provide specific objectives for asset growth, market focus, earnings projections, capital needs, and liquidity position. The plan shall be in a form and manner acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

### **LENDING AND COLLECTION POLICIES**

16. Within 60 days from the effective date of this ORDER, the Bank shall revise its written lending, underwriting and collection policies to address the criticisms and recommendations enumerated in the Report. Such policy and its implementation shall be in a form and manner acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations. In addition, the Bank shall obtain adequate and current documentation for all loans in the Bank's loan portfolio.

### **VIOLATIONS OF LAW AND/ OR REGULATION AND CONTRAVENTIONS OF STATEMENTS OF POLICY**

17. Within 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and/or regulation and contraventions of statements of policy, which are more fully set out on pages 14 through 21 of the Report. In addition, the Bank shall take all necessary steps to ensure future compliance with all applicable laws, regulations, statements of policy, and regulatory guidance.

### **BSA COMPLIANCE PLAN**

18. Within sixty (60) days from the effective date of this ORDER, the Bank shall develop, adopt, and implement a written plan for continued administration of a program reasonably designed to ensure and maintain compliance with the Bank Secrecy Act (“BSA”), subchapter II of Chapter 53 of Title 31 of the United States Code, and its implementing rules issued by the U.S. Department of Treasury, 31 C.F.R. Part 103; the

regulations of the Office of Foreign Asset Control (“OFAC”); the FDIC’s BSA compliance regulations, 12 C.F.R. § 326.8, and the FDIC’s suspicious activity report regulations, 12 C.F.R. Part 353 (“Part 353”) (collectively, the “BSA Rules”) and Customer Information Program (“CIP”) collectively known as the Compliance Plan. The Bank shall submit the Compliance Plan to Supervisory Authorities for review and comment. Upon receipt of the Supervisory Authorities comments, if any, the Board shall review, approve, and implement the Compliance Plan. After the Board has approved the Compliance Plan, the review and approval shall be recorded in the minutes of the Board. Thereafter, the Bank shall ensure future compliance with the BSA Rules. At a minimum, the Compliance Plan shall require the review, enhancement, or restatement, as appropriate of:

- (i) the written customer CIP as required by 31 C.F.R. Section 103.121, appropriate for the Bank’s size and type of business, consistent with the requirements of the BSA Rules and which addresses the criticisms enumerated in the Report; and
- (ii) provide comprehensive training that shall have a general component for all directors and staff and specific components that are tailored to the needs of specific positions, departments and personnel. The training program shall provide for both initial and periodic refresher training and shall specify who is responsible for dissemination of changes in the BSA Rules and in what media and time notifications of changes are to be made. The training program shall require documentation of attendance at training with full

### **BROKERED DEPOSITS**

19. (a) During the life of this ORDER, the Bank shall not accept, renew, or rollover brokered deposits without obtaining a brokered deposit waiver approved by the FDIC pursuant to section 29 of the Act, 12 U.S.C. § 1831f. For purposes of this ORDER, brokered deposits are defined as described in section 337.6(a)(2) of the FDIC's Rules and Regulations, 12 C.F.R. § 337.6(a)(2) to include any deposits funded by third party agents or nominees for depositors, including depositors managed by a trustee or custodian when each individual beneficial interest is entitled to a right to federal deposit insurance.

(b) The Bank shall comply with the restrictions on the effective yields on deposits described in 12 C.F.R. § 337.6.

### **DISCLOSURE TO SHAREHOLDERS**

20. Following the issuance of this ORDER, the Bank shall provide to its shareholders or otherwise furnish a description of this ORDER (i) in conjunction with the Bank's next shareholder communication or (ii) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe the ORDER in all material respects. The description and any accompanying communication, statement, or notice shall be sent to the FDIC, Division of Supervision and Consumer Protection, Accounting and Securities Disclosure Section, 550 17<sup>th</sup> Street, N.W., Room F-6066, Washington, D.C. 20429 and to the Commissioner, Georgia Department of Banking and Finance, 2990 Brandywine Road, Suite 200, Atlanta, Georgia 30341-5565, to review at least twenty (20) days prior to dissemination to shareholders. Any changes



requested to be made by the FDIC and the Commissioner shall be made prior to dissemination of the description, communication, notice, or statement.

### **PROGRESS REPORTS**

21. Within 30 days of the end of the first quarter following the effective date of this ORDER, and within 30 days of the end of each quarter thereafter, the Bank shall furnish written progress reports to the Supervisory Authorities detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports shall include a copy of the Bank's Report of Condition and the Bank's Report of Income. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Supervisory Authorities have released the Bank in writing from making further reports.

The provisions of this ORDER shall not bar, estop, or otherwise prevent the FDIC or any other federal or state agency or department from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties.

This ORDER shall become effective on the date of issuance.

The provisions of this ORDER shall be binding upon the Bank, its institution-affiliated parties, and any successors and assigns thereof.

The provisions of this ORDER shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside by the FDIC.

Issued pursuant to Delegated Authority.

Dated this 20th day of November, 2009.

/s/

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Doreen Eberley  
Acting Regional Director  
Division of Supervision and Consumer Protection  
Atlanta Region  
Federal Deposit Insurance Corporation

The Georgia Department of Banking and Finance (“Department”), having duly approved the foregoing ORDER, and the Bank, through its Board, agree that the issuance of said ORDER by the FDIC shall be binding as between the Bank and the Georgia Commissioner of Banking and Finance to the same degree and to the same legal effect that such ORDER would be binding if the Department had issued a separate ORDER that included and incorporated all of the provisions of the foregoing ORDER, pursuant to Official Code of Georgia Annotated § 7-1-91, Ga. Code. Ann. § 7-1-91 (1985).

Dated this 20th of November, 2009.

/s/

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Robert M. Braswell  
Commissioner  
Department of Banking and Finance  
State of Georgia